

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

In The Matter Of:)	
)	
Louis J. Szalacinski	)	Case Number: 14-40427-659
Carol Jolley Szalacinski)	
)	
Debtors	)	Chapter 7
)	
Weststar Mortgage Corporation, or its	)	Motion to Lift Stay filed by
successors and assigns	)	Weststar Mortgage Corporation
)	
Movant,)	
	)	Millsap & Singer, LLC
vs.	)	612 Spirit Drive
	)	St. Louis, MO 63005
Louis J. Szalacinski	)	(636) 537-0110
Carol Jolley Szalacinski)	
	)	Hearing Date: March 10, 2014
and	)	Hearing Time: 10:00 AM
	)	Objection Deadline: March 3, 2014
Tracy A. Brown)	
)	
Trustee)	
)	
Respondents)	
)	

NOTICE OF HEARING AND
MOTION FOR RELIEF FROM AUTOMATIC STAY

WARNING: ANY RESPONSE OR OBJECTION MUST BE FILED WITH THE COURT BY MARCH 3, 2014 (SEE L.B.R. 9013-1). A COPY MUST BE PROMPTLY SERVED UPON THE UNDERSIGNED. FAILURE TO FILE A TIMELY RESPONSE MAY RESULT IN THE COURT GRANTING THE RELIEF REQUESTED PRIOR TO THE HEARING DATE.

THE HEARING TO BE HELD ON THE DATE AND TIME ABOVE BEFORE THE HONORABLE KATHY A. SURRETT-STATES, IN THE UNITED STATES BANKRUPTCY COURT, EASTERN DISTRICT OF MISSOURI, THOMAS F. EAGLETON U.S.

**COURTHOUSE, 111 SOUTH TENTH STREET, FLOOR 7, NORTH COURTROOM, ST.
LOUIS, MO 63102.**

COMES NOW, Weststar Mortgage Corporation and for its Motion for Relief from Automatic Stay states as follows:

1. On January 23, 2014, Debtors filed a Petition under Chapter 7 of the Bankruptcy Code. Tracy A. Brown is the duly appointed and qualified Trustee in this case.

2. Weststar Mortgage Corporation is the holder of a secured claim in this proceeding by virtue of one Promissory Note dated October 22, 2012 in the original principal amount of \$133,694.00. A copy of said Note has been electronically attached to this document as Exhibit A and is made a part hereof by this reference.

3. Said Note is secured by a Deed of Trust dated October 22, 2012 and recorded in Book 20220, Page 499 constituting a first lien on real estate owned by the Debtors. Said property being commonly known as 2352 Battlefield Dr, Florissant, MO 63031; more particularly described as follows:

LOT 269 OF PLEASEANT HOLLOW PLAT NO. 4, A SUBDIVISION IN ST.
LOUIS COUNTY, MISSOURI, ACCORDING TO THE PLAT THEREOF
RECORDED IN PLAT BOOK 151 PAGE 74 OF THE ST. LOUIS COUNTY
RECORDS.

A copy of said Deed of Trust, which is recorded in the St. Louis County Recorder of Deeds Office, has been electronically attached to this document as Exhibit B and is made a part hereof by this reference.

4. All rights and remedies under the Deed of Trust have been assigned to the Movant pursuant to that certain assignment of deed of trust. A copy of the assignment of deed of trust has been electronically attached to this document as Exhibit C and is made a part hereof by this reference.

5. Movant seeks to enforce said Note and Deed of Trust as by law allowed. No creditor or Trustee of the estate has any interest in said realty superior to the rights of Movant.

6. This Court previously entered its Order pursuant to 11 U.S.C. Section 362(a) prohibiting, among other things, any act to enforce any lien against the property of the estate and any act to obtain possession of property of the estate.

7. As of January 29, 2014, the unpaid principal balance on said note was \$127,378.39.

8. Movant does not have an independent value of the property however, it should be noted, schedules filed by the Debtors represent the value of the property to be \$78,000.00.

9. Monthly payments are owing and delinquent from November 1, 2013. The following are the payments that are delinquent as of February 12, 2014:

4 payments @ \$1,442.76	\$5,771.04
4 late charges @ \$38.23	\$152.92
MFR Attorney Fees	\$600.00
MFR Attorney Costs	\$176.00
Total Arrearages	\$6,699.96

10. The aforesaid realty has depreciated in value while in possession of the Debtors and there is no equity in said property.

11. Good and sufficient cause exists in this case to modify the automatic stay of Section 362 for the reason that:

(a) Payments to Weststar Mortgage Corporation have not been made by the Debtors.

(b) Weststar Mortgage Corporation does not have adequate protection for its interest in said real estate.

(c) If Weststar Mortgage Corporation is not permitted to foreclose its security interest in said real estate, it will suffer irreparable injury, loss and damage.

12. Movant specifically requests permission from this Honorable Court to communicate with Debtors and Counsel for Debtors to the extent provided for under applicable nonbankruptcy law.

WHEREFORE, Movant prays that this Court terminate the automatic stay in regard to the realty in order to permit Movant, or its successors and assigns to proceed with foreclosure on the aforesaid property, to pursue its remedies under state law in connection with the aforesaid Deed of Trust and Note, and to pursue its remedies under state law for possession of said property after foreclosure and for an order that the relief from the automatic stay is not stayed pursuant to Rule 4001 for fourteen (14) days, that the property be deemed abandoned by the Chapter 7 Trustee as an asset of the bankruptcy estate effective upon entry of the Court's Order and for such other relief as is appropriate and just.

Dated February 12, 2014

Respectfully Submitted,
Millsap & Singer, LLC

/s/ William T. Holmes, II

Cynthia M. Woolverton, #47698, #47698MO

Michael J. Wambolt, #51231, #51231MO

William T. Holmes, II, #59759, #59759MO

612 Spirit Drive

St. Louis, MO 63005

Telephone: (636) 537-0110

Facsimile: (636) 537-0067

bkty@msfirm.com

Attorneys for Weststar Mortgage Corporation

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was filed electronically on February 12, 2014, with the United States Bankruptcy Court, and has been served on the parties in interest via e-mail by the Court pursuant to CM/ECF as set out on the Notice of Electronic filing as issued by the Court or in the alternative has been served by depositing a true and correct copy of same enclosed in a postage prepaid, properly addressed envelope, in a post office official depository under the exclusive care and custody of the United States Postal Service within the state of Missouri on those parties directed by the Court on the Notice of Electronic Filing issued by the Court as required by the Federal Rules of Bankruptcy Procedure and the Local Rules of the United States Bankruptcy Court.

/s/ William T. Holmes, II

Electronic Mail Notice List

The following is the list of attorneys who are currently on the list to receive e-mail notices for this case.

Katie M. Miller

Tracy A. Brown

Office of the United States Trustee

Manual Notice List

The following is a list of parties who are not on the list to receive e-mail notices for this case (who therefore require manual noticing).

Louis J. Szalacinski
Carol Jolley Szalacinski
2352 Battlefield Drive
Florissant, MO 63031